

HAMEL & PARK
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WASHINGTON, D. C. 20006

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NOT ADMITTED IN D. C.

(202) 835-8120 **5218** Filed & Recorded
RECORDATION NO. **5218**
MAY 5 1987 1-50 PM May 5, 1987
BY HAND INTERSTATE COMMERCE COMMISSION **7-125A050**

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

MAY 5 1987
10.00

ICC OFFICE OF
THE SECRETARY
MAY 5 1 42 PM '87
MOTOR OPERATING UNIT

Attention: Documents for Recordation

Dear Secretary:

I have enclosed an original and one counterpart of the document described below to be recorded pursuant to section 11303 of Title 49 of the U.S. Code.

The document is a lease, a primary document dated April 15, 1987.

The names and addresses of the parties to the document are:

Lessor: The Canada Trust Company
320 Bay Street
Toronto, Ontario
Canada M5H 2P6
Attention: Corporate Lending
Department

Lessee: Canadian National Railway Company
935 de La Gauchetiere St., West
Montreal, Quebec
Canada H3B 2M9
Attention: Treasurer

Kimberly J. Davis
Quintus

HAMEL & PARK

WASHINGTON, D. C.

Secretary
Interstate Commerce Commission
May 5, 1987
Page 2

A description of the equipment covered by the document follows:

200 Center Beam Bulkhead Flat Cars
AAR Mechanical Designation: FBS
Identifying Marks
CNIS 623100-623259, inclusive, and
CN 623260-623299, inclusive

A fee of \$10.00 is enclosed.

Please return the original and any extra copies not needed by the Commission for recordation to William H. Bradford, Jr., Hamel & Park, 888 - 16th Street, N.W., Washington, D.C. 20006.

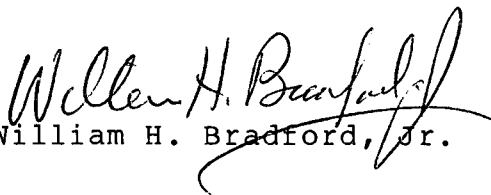
A short summary of the document to appear in the index follows:

Lease between Canada Trust Company, lessor,
320 Bay Street, Toronto, Canada M5H 2P6 and
Canadian National Railway Company, lessee,
935 de La Gauchetiere Street, West, Montreal,
Quebec, Canada H3B 2M9; 200 center beam bulk-
head flat cars, AAR Mechanical Designation:
FBS; dated April 15, 1987.

Very truly yours,

HAMEL & PARK

By:


William H. Bradford, Jr.

WHB:pb
Enclosures

cc: David Bekhor, Esquire

Interstate Commerce Commission
Washington, D.C. 20423

5/5/87

OFFICE OF THE SECRETARY

William H. Bradford
Hamel & Park
838 16th St. N.W.
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 5/5/87 at 1:50pm, and assigned re-recording number(s). 15218

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

1 5218

RECORDATION NO. _____ Filed & Recorded

MAY 5 1987 1-50 PM

INTERSTATE COMMERCE COMMISSION

LEASE OF EQUIPMENT
BETWEEN
THE CANADA TRUST COMPANY
AND
CANADIAN NATIONAL RAILWAY COMPANY

Dated as of April 15, 1987

LEASE

THIS LEASE OF EQUIPMENT dated as of April 15, 1987, between THE CANADA TRUST COMPANY (hereinafter called the "Lessor"), a loan company incorporated under the laws of Canada and having an office at 320 Bay Street, Toronto, Ontario M5H 2P6, as owner and lessor and CANADIAN NATIONAL RAILWAY COMPANY (hereinafter called the "Lessee"), a corporation continued under the laws of Canada and having an office at 935 de La Gauchetiere West, Montreal, Quebec, H3B 2M9, as lessee.

WHEREAS the Lessee has entered into an equipment purchase agreement dated April 8, 1987 (hereinafter called the "Equipment Purchase Agreement"), between NATIONAL STEEL CAR LIMITED (hereinafter called the "Builder"), as seller and the Lessee, as purchaser, pursuant to which the Lessee has agreed to acquire all of the units of equipment described in Schedule A hereto (hereinafter collectively called the "Units");

AND WHEREAS pursuant to a direction and disbursement agreement (the "Direction") of even date made among the Lessor, the Lessee and the Builder, the parties have agreed that title to and ownership of the Units shall pass directly to the Lessor and that, except as otherwise provided therein, payment for the Units in accordance with the Direction and the Equipment Purchase Agreement shall be made by the Lessor;

AND WHEREAS the Lessee desires to lease all the Units that are duly delivered and accepted as provided herein at the rentals and upon the terms and conditions hereinafter provided.

NOW THEREFORE in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units so delivered and accepted as provided herein to the Lessee for the Term (as defined below) upon the following terms and conditions:

1. Interpretation

Except where the context otherwise requires:

"Arrears" means the total of all Rentals and other moneys, if any, due and owing by the Lessee hereunder, while unpaid.

"Builder" has the meaning ascribed thereto in the recitals to this Agreement.

"Business Day" means any day other than a Saturday, Sunday or other day on which banking institutions are not open for business in the cities of Montreal and Toronto.

7/11/87

"Casualty Occurrence" shall have the meaning ascribed thereto in Section 6.

"Direction" shall have the meaning ascribed thereto in the recitals to this Lease.

"Dollars" or "\$" means lawful money of Canada.

"Equipment Purchase Agreement" has the meaning ascribed thereto in the recitals to this Lease.

"Event of Default" shall have the meaning ascribed thereto in Section 9.1.

"Lease Commencement Date" means with respect to each Unit, the date the same shall be deemed to be delivered to the Lessee in accordance with Section 2.

"Lessee" has the meaning ascribed thereto in the recitals to this Lease.

"Lessor" has the meaning ascribed thereto in the recitals to this Lease.

"Lessor's Acquisition Cost" means the amount actually advanced by the Lessor to the Builder or others pursuant to the Equipment Purchase Agreement, or the Direction or otherwise in respect of the Units; provided however that in no event shall the aggregate of such amounts be less than \$11,500,000 or more than \$11,750,000.

"Office" means the office of the Lessor referred to in the first paragraph of this Agreement (Attention: Corporate Lending) or such other office as the Lessor may notify the Lessee from time to time in accordance with Section 18.


"Rental" means the rental payable for each Period as provided in Section 3, including without limitation, interim rental payable pursuant to Section 3(a).

"Rental Commencement Date" means July 15, 1987.

"Period" means each six month period subsequent to the Rental Commencement Date; the Term comprising thirty (30) Periods.

"Stipulated Loss Value" means at any time, the applicable amount specified in Schedule B hereto.

"Temporary Alterations" has the meaning ascribed thereto in Section 8.6.



"Term" means the period commencing as to each Unit on the Lease Commencement Date with respect thereto and ending on July 15, 2002.

"Units" has the meaning ascribed thereto in the recitals to this Lease.

2. Delivery and Acceptance of Units

The Units will be tendered to the Lessee on behalf of the Lessor in accordance with the Equipment Purchase Agreement and the Direction. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if each such Unit is found to be in good order, to accept delivery of each such Unit and execute and deliver to the Lessor a certificate of acceptance and delivery substantially in the form attached as Schedule C hereto, whereupon each such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

3. Rentals

(a) The Lessee agrees to pay to the Lessor on the Rental Commencement Date one interim rental payment in an amount equal to interest calculated on the Lessor's Acquisition Cost for each Unit for the period from and including the date or dates of payment by the Lessor thereof to and including the day next preceding the Rental Commencement Date in each case at a rate per annum equal to the rate quoted by Canadian Imperial Bank of Commerce on the date of each such payment for banker's acceptances in like amounts maturing on the day next preceding the Rental Commencement Date.

(b) From and after the Rental Commencement Date, the Lessee agrees to pay the Lessor Rental for each Unit subject to this Lease for each Period, together with other applicable payments herein provided. Such Rental shall be an amount equal to the rental rate (as hereinafter determined) applied as percentages of Lessor's Acquisition Cost and will be payable in arrears on the last day of each Period. Such rental rates shall be 4.4900% for each of the first 20 consecutive Periods, and 10.7610% for each Period thereafter.

This Lease is a net lease and the Lessee shall not be entitled to any abatement, reduction or set-off against payments hereunder including, but not limited to, abatement, reductions or set-offs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or

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loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against use of all or any of the Units by the Lessee or any other person, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease or any other document or instrument, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Rentals and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

Whenever any payment shall be stated to be due on a day which is not a Business Day, such payment shall be made on the next preceding Business Day. All such payments shall be made at the Office in immediately available funds at or before 11:00 a.m. Toronto time on the date due.

4. Identification Marks

The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto and will after the acceptance of delivery of each Unit, mark each Unit and will thereafter keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than three-eighths inch in height, the following words:

"OWNERSHIP FILED WITH THE REGISTRAR GENERAL
OF CANADA AND THE ICC"

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order to protect the interests of the Lessor and any secured party in each Unit and under this Lease. The Lessee will not change or permit to be changed the identifying number of any Unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited at the Lessee's cost and expense in all public offices where this Lease or notice thereof has been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or any permitted sublessee on equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

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5. Taxes

(a) The Lessee agrees to pay and to indemnify and hold the Lessor harmless on an after tax basis from all taxes, assessments, duties, license and registration fees and other governmental charges, including penalties and interest (hereinafter collectively referred to as "Taxes") imposed, levied or assessed by any federal, provincial or local government or taxing authority in Canada, or, if as a result of the operation, possession or use of any Unit by or through the Lessee in any foreign country, by any government or taxing authority in a foreign country, against such Unit or upon or measured by any interest therein, or upon or with respect to the purchase, ownership, delivery, leasing or possession thereof by the Lessor, or upon or with respect to the use, possession or operation thereof by the Lessee, or on account of or measured by the rentals, earnings or gross receipts arising pursuant to this Lease (including any payment or indemnity under this Lease), provided that the Lessee shall not be required to pay the same (or any amount by way of indemnity of the Lessor or otherwise pursuant to this Section) if and so long as it shall in good faith and with due diligence and by appropriate legal or administrative proceedings contest the validity, applicability or amount thereof (but only so long as such proceedings shall stay the collection thereof and shall not involve any risk of the sale, forfeiture or loss of any Unit or any interest therein). If a claim is made against the Lessor for any Taxes, then the Lessor shall use its reasonable efforts to notify the Lessee promptly and, if so requested by the Lessee, shall at the Lessee's expense contest the validity and amount of any Taxes which it may be required to pay and in respect of which it is entitled to reimbursement by the Lessee under this Section so long as the rights or interests of the Lessor hereunder or in such Unit will not be materially endangered thereby.

(b) Notwithstanding the provisions of paragraph (a) of this Section 5, the Lessee shall have no obligation thereunder as to:

- (1) any Taxes on, based on or measured by the net income of the Lessor imposed (i) by Canada, a province or other local taxing authority in Canada or (ii) by any foreign government or any taxing authority or governmental subdivision of a foreign country to the extent allowed as a credit against income taxes imposed by Canada, a province, or other local taxing authority taking into account any applicable limitation on the aggregate amount of such credit and after assuming that all other Taxes of the Lessor for the same or prior periods which qualify for such credit are first allowed;
- (2) any Taxes on, based on, or measured by, the net income of the Lessor imposed by any foreign government or any taxing authority or governmental subdivision of a foreign country by virtue of the Lessor being engaged in business in such foreign country through activities

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unrelated to the transactions contemplated by this Lease to the extent the Lessee's obligation as to such Taxes would otherwise exceed the amount of such Taxes which would be payable if the Lessor were not so engaged in such business; or

- (3) any Taxes which are or may become imposed by Canada on rental or similar payments being made under this Lease to a non-resident of Canada (as defined in the Income Tax Act (Canada));


(c) In the event any reports with respect to Taxes are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor in such Units or notify the Lessor of such requirement and will make such reports in such manner as shall be agreed to by the parties.

(d) In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this Section, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

6. Payment for Casualty Occurrences

In the event that any Unit shall be or become lost, stolen, destroyed, irreparably damaged or damaged beyond economic repair, from any cause whatsoever or taken or requisitioned by condemnation, expropriation or otherwise for a period in excess of 90 days (such occurrences being hereinafter called "Casualty Occurrences") at any time during the term of this Lease, the Lessee shall promptly after it shall have determined that such Unit has suffered a Casualty Occurrence, notify the Lessor in writing in regard thereto. The Lessee shall pay to the Lessor on the next succeeding rental payment date which is more than 20 days after notice is given of such Casualty Occurrence, an amount equal to the Stipulated Loss Value of such Unit calculated as of such rental payment date plus the Rental due on such date in respect of such Unit and only after making such payment the Rental for such Unit shall cease to accrue and the term of this Lease as to such Unit shall terminate. The Lessor shall, upon request of the Lessee, after payment by the Lessee of such amount deliver to or upon the order of the Lessee a bill of sale (without recourse, representations or warranties) for such Unit executed by the Lessor and such other documents as may reasonably be required in order to transfer to the Lessee such title to such Unit as the Lessor received from the Builder free and clear of all liens, security interests and other encumbrances arising through the Lessor.

The rights and remedies of the Lessor to enforce or recover any of the Rentals or any other amounts which are due and payable hereunder in respect of any Period prior to the date of payment of the Stipulated Loss Value of any Unit to the Lessor shall not



be affected by reason of the Casualty Occurrence with respect to such Unit.

7. Annual Reports

On or before April 1 in each year during the Term, the Lessee will cause to be furnished to the Lessor in such number of counterparts or copies as may reasonably be requested an accurate statement signed by a responsible officer of the Lessee, as of the preceding December 31,

(a) showing the amount, description and numbers of the Units then leased hereunder; the amount, description and number of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement); and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request,

(b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by Section 4 have been preserved or replaced, and

(c) stating whether or not any Event of Default shall have occurred during the period covered by such statement and, if an Event of Default shall have occurred, whether or not the same is continuing and what steps the Lessee has taken or is taking to cure such Event of Default.

The Lessor shall have the right upon reasonable notice to the Lessee at its sole cost and expense, by its authorized representatives, to inspect the Units at all reasonable times at such location or locations designated by the Lessee to view the state and condition of the Units and to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease; provided, however, that the Lessee shall not be liable, except in the case of gross negligence of the Lessee or of its employees or agents, for any damage, injury to, or the death of any persons exercising on behalf of the Lessor or any prospective assignee of the Lessor, the rights of inspection granted hereunder.

8. Disclaimer of Warranties; Lessor's Representations and Warranties; Compliance with Laws and Rules; Maintenance; Indemnification; Lessee's Representations and Warranties

8.1 The Lessee acknowledges that the Units and the manufacturer of the Units have been selected by the Lessee alone, that neither the Lessor nor its employees or agents is a manufacturer, dealer or distributor of railroad equipment, or expert with respect thereto, that the Builder is not an agent of the Lessor and, accordingly, the Lessee without prejudice to any rights

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which the Lessee may have against the Builder or others, and subject as provided in Section 8.7, hereby releases and forever discharges the Lessor from any and all actions, causes of action, debts, damages, costs, expenses, claims, demands, rights or defences which at any time now or hereafter may arise out of or in relation to the Units or to the purchase, operation or sale thereof. The Lessee agrees that the Lessee has made or shall in fact make all appropriate and prudent studies in connection with the selection of the Units and all the tests and inspections thereof, as would a careful and prudent purchaser. As to all matters of selection, design, patenting, industrial design, trade marks, construction, condition, safety, suitability, fitness, capacity, performance, durability of the Units and all matters whatsoever with respect to the acceptability of the Units, the Lessee shall look only to, and shall rely solely upon the Builder or others, and not to or upon the Lessor or the Lessor's employees or agents.

The Lessor shall have no responsibility or liability under this Lease to the Lessee or any other person with respect to: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any inadequacy of any Units or deficiency or defect therein; or (ii) the delivery, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee and the Lessor that all Units are in all the foregoing respects satisfactory to the Lessee and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee acknowledges and agrees that, except to the limited extent otherwise expressly provided herein, there are and will be no agreements, representations, warranties or conditions, expressed or implied, oral or written, legal, equitable, statutory, conventional, collateral or otherwise, on the part of the Lessor respecting or in connection with the Units and that the Lessor has undertaken this transaction strictly in reliance upon the terms, conditions and provisions of this Section. Without limiting the generality of the foregoing, the Lessee agrees that any latent defects in or any failure of the Units shall be conclusively deemed not to be or to constitute a fundamental or other breach hereof by the Lessor, or a failure of performance or consideration hereunder on the part of the Lessor, it being understood that this agreement shall be conclusively deemed, as between the Lessor and the Lessee, to be in substance a financial transaction.

8.2 The Lessor represents and warrants as follows:

(i) at the time of delivery of each Unit under this Lease, the Lessor shall have such title to such Unit as is derived from the Builder, unimpaired by any act or omission of the Lessor which will in any manner prevent the performance of this Lease in accordance with its terms and, in addition, such Unit shall be

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free and clear of all claims, liens and encumbrances, which may result from claims against the Lessor not arising out of the ownership thereof which will prevent the performance of this Lease in accordance with its terms;

(ii) so long as an Event of Default shall not have occurred and is then continuing under this Lease, the Lessor shall not do (or suffer to be done by any person claiming through or against the Lessor), any act which interferes with any and all rights of the Lessee to peaceably and quietly hold, possess and use the Units in accordance with the terms of this Lease;

(iii) the Lessor is a corporation duly incorporated and validly existing under the laws of Canada, with adequate corporate power to enter into this Lease;


(iv) this Lease has been duly authorized, executed and delivered by the Lessor and constitutes a legal, valid and binding obligation of the Lessor enforceable in accordance with its terms;

(v) the entering into and performance of this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Lessor is subject or any judgment, decree, franchise, order or permit applicable to the Lessor; and

(vi) there are no actions, suits or proceedings pending or, to the knowledge of the Lessor, threatened against the Lessor affecting this Lease or the transaction contemplated hereby which could, if adversely determined, materially and adversely affect the carrying out of such transaction.

8.3 The Lessor covenants that any sale, assignment, transfer, mortgage or other disposition which it may make of this Lease or of any Unit, whether prior or subsequent to delivery to the Lessee, shall be expressly subject to the terms and provisions of this Lease.

8.4 The Lessee agrees, for the benefit of the Lessor, to comply in all respects with all laws of the jurisdictions in which the Units may be operated and the Lessee shall and does hereby indemnify the Lessor and agrees to hold the Lessor harmless from and against any and all liability that may arise from any infringement or violation of any such laws by the Lessee or any sublessee, or their employees, or any other person. In the event that such laws require alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in any case any additional or other equipment or appliance is required to be installed on such Unit in order to comply with such laws, the Lessee agrees to make such




alterations, changes, additions and replacements at its own expense; and the Lessee agrees at its own expense to use, maintain and operate such Unit in full compliance with such laws, so long as it is subject to this Lease; provided, however, that the Lessee may, in good faith, contest with due diligence by appropriate legal proceedings the validity or application of any such law in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property rights of the Lessor hereunder.

8.5 The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good order and repair, ordinary wear and tear excepted.

8.6 The Lessee may, at its expense and without the prior consent or notice to the Lessor, make any alteration, improvement or addition to any of the Units as it may deem desirable in the proper operation of its business provided that such alteration, improvement or addition shall not materially impair the continuing use of such Units. Any and all additions to any Unit and any and all parts installed on or replacements made to any Unit or any part thereof shall be considered accessions to such Unit (except such as are not (i) required by laws referred to in Section 8.4, (ii) replacements or substitutions of existing parts or equipment rather than additions thereto, and (iii) readily removable without material damage thereto and without diminishing the value of or impairing the originally intended function or use of such Unit (hereinafter called "Temporary Alterations"), and ownership of such accessions (except as aforesaid) free of any lien, charge, security interest or encumbrance shall immediately be vested in the Lessor. The Lessor and Lessee recognize that Temporary Alterations may be made to any of the Units and may be owned by the Lessee and with the prior written consent of the Lessor (such consent not to be unreasonably withheld) may be financed by persons other than the Lessee. Upon termination of this Lease, the Lessee may, and at the request of the Lessor, shall at the Lessee's sole cost and expense, remove the Temporary Alterations from the Units and will restore the Units to satisfactory operating condition and to their original physical condition at the time of delivery thereof to the Lessee hereunder, reasonable wear and tear excepted. Ownership of any Temporary Alterations not so removed by the Lessee shall pass to and vest in the Lessor.

8.7 The Lessee agrees to indemnify and save harmless the Lessor against any charge or claim made against the Lessor, and against any expense, loss or liability (including but not limited to solicitors' fees and expenses, patent liabilities, penalties and interest) which the Lessor may incur in any manner by reason of entering into or of the performance of this Lease or by reason of the ownership of any Unit, or which may arise in any manner out of or as the result of the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit under this Lease or the occurrence of any



Event of Default hereunder or any event which with the giving of notice, or lapse of time, or both, would become an Event of Default. The Lessee further agrees to indemnify and save harmless the Lessor against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of any Unit resulting in damage to property or injury to any person; provided, however, that the Lessee shall not be required to indemnify the Lessor under this Section for negligence on the part of the Lessor, its employees and agents. The indemnities arising under this Section shall survive payment of all other obligations under this Lease or the termination of this Lease. In case any action, suit or proceeding is brought against the Lessor in connection with any claim, indemnified against hereunder, the Lessee may, and upon the request of the Lessor will, at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and acceptable to the Lessor and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, solicitors' fees and expenses) incurred by the Lessor in connection with such action, suit or proceeding. Anything herein to the contrary notwithstanding, the Lessee shall not be obligated to indemnify under this Section in respect of any charge, claim, expense, loss or liability attributable to a Unit which, and to an event occurring after such Unit, shall have been assembled, delivered, stored and transported to the Lessor pursuant to the provisions hereof or after this Lease with respect to such Unit has otherwise terminated; provided, however, that such charge, claim, expense, loss or liability does not arise as a result of mechanical defects of such Unit which existed at the time such Unit was so returned or this Lease with respect to such Unit terminated.

Upon the payment in full of any indemnities as contained in this Section 8.7 by the Lessee and provided that no Event of Default (or other event which with lapse of time or notice, or both, would constitute an Event of Default) shall have occurred and be continuing, (i) the Lessee shall be subrogated to any right of the Lessor in respect of the matters against which indemnity has been given, and (ii) any payments received by the Lessor from any person (except the Lessee) as a result of any matter with respect to which the Lessor has been indemnified by the Lessee pursuant to this Section 8.7 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter.

8.8 The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports to be filed by the Lessor with any Federal, provincial, foreign or other regulatory authority by reason of the interest of the Lessor in the Units or the leasing thereof to the Lessee.

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8.9 The Lessee will, at all times prior to the return of the Units to the Lessor in accordance with the terms of this Lease and during any storage period, at its own expense, cause to be carried and maintained public liability and property damage insurance in respect of the Units against the risks and in the amounts, if any, customarily insured against by the Lessee in respect of similar equipment owned or leased by it. Notwithstanding anything to the contrary in this Section 8.9, the Lessee shall be permitted to provide for customary deductibles and/or self insurance. If the Lessee does not choose to self-insure, it shall promptly so advise the Lessor, then if requested by the Lessor, each insurance policy covering physical damage of any of the Units and each liability policy will name the Lessor as an additional insured and will provide for 30 days' prior written notice of the cancellation or material change in coverage. The Lessee will be liable for the payment of all insurance premiums, payable in respect of any such insurance. If requested by the Lessor, evidence of any insurance carried, other than self-insurance, shall be delivered to the Lessor.

8.10 The Lessee will furnish to the Lessor, on the later of (i) 90 days after the end of each fiscal year, and (ii) 10 days after the tabling thereof in the House of Commons of Canada, its annual report, a statement of profit and loss and of surplus for such fiscal year, and a balance sheet as at the end of such fiscal year, all in reasonable detail together with the report and opinion of a firm of independent chartered accountants.

8.11 The Lessee represents, warrants and covenants as follows:

(i) the Lessee is a duly incorporated and validly subsisting corporation under the laws of Canada, with full corporate power and authority to own its properties and to carry on its business as presently conducted and to enter into and perform its obligations under the Equipment Purchase Agreement, this Lease and the Direction;

(ii) each of the Equipment Purchase Agreement, this Lease and the Direction has been duly authorized, executed and delivered by the Lessee and constitutes a legal and valid agreement binding upon the Lessee and enforceable in accordance with its terms;

(iii) no approval is required from any governmental or public regulatory body or authority with respect to the entering into or performance of this Lease, the Equipment Purchase Agreement and/or the Direction by the Lessee, or if any such approval is required, it has been properly obtained;

(iv) the entering into and performance of this Lease will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound or contravene any provision of law,

Handwritten signature

statute, rule or regulation to which the Lessee is subject or any judgment, decree, franchise, order or permit applicable to the Lessee;

(v) there are no actions, suits or proceedings pending or, to the knowledge of the Lessee, threatened against the Lessee or its properties or affecting this Lease or the transactions contemplated hereby which could, if adversely determined, materially and adversely affect the carrying out of such transactions; and

(vi) the Units will be used principally for the purpose of the transport of property in Canada or to and from Canada in the ordinary course of the Lessee's business in Canada, the income from which is not exempt from tax by virtue of any provision of the Income Tax Act (Canada).

8.12 The parties acknowledge and agree and the Lessee covenants that promptly after the execution and delivery hereof (and in any event before the payment by the Lessor of any amounts in respect of Lessor's Acquisition Cost) Lessee will, at the expense of the Lessor:

(i) deposit this Lease in the office of the Registrar General of Canada and give notice of such deposit in the Canada Gazette in accordance with Section 86 of the Railway Act (Canada);

(ii) execute and deliver all such documents and do all such things as shall be reasonably required to permit the Lessor to complete the filing or recording of this Lease or notice thereof under the relevant statutes and in the appropriate offices in the Provinces of Ontario, Manitoba, Saskatchewan, Alberta and British Columbia; and

(iii) deposit this Lease in the office of the Secretary of the Inter State Commerce Commission;

and the Lessee shall provide the Lessor with the particulars of each of the matters referred to in subparagraphs (i) and (iii) hereof together with the report of Counsel as to the completion thereof.

Thereafter, the Lessee shall from time to time execute all such documents and do all such things as shall be reasonably required to permit the Lessor at its expense to file and record this Lease or notice thereof in all such other jurisdictions or offices as the Lessor shall deem necessary or advisable.

9. Default and Enforcement

9.1 If during the continuance of this Lease, one or more of the following events (hereinafter sometimes called "Events of Default") shall occur:

(A) default shall be made in the payment of any part of the Rental provided herein or any payment in respect of Casualty Occurrences and such default shall continue for a period of two Business Days after written notice from the Lessor;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or sublease of any of the Units;


(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 25 days after written notice from the Lessor specifying the default and demanding that the same be remedied; or

(D) any proceedings shall be commenced by or against the Lessee by way of a scheme of arrangement under the Railway Act (Canada) or for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or judgment or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceeding shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessor, at its option may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee consider such Event of Default to constitute a repudiation by the Lessee of this Lease and/or terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, enjoy, sell, lease or otherwise dispose of the same in such manner as the Lessor may determine free from any right of



the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee in respect thereof, but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the Rental for any number of days less than a full Period by multiplying the Rental for such full Period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full Period) and also to recover forthwith from the Lessee (i) as liquidated damages for loss of the bargain and not as a penalty, a sum, with respect to all Units, which equals the Stipulated Loss Value of all the Units as of the rental payment date next preceding the date of termination or repudiation of this Lease, and (ii) any damages and expenses, including reasonable solicitors' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of Rental or arising from the exercise by the Lessor of any remedies hereunder. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that upon and/or after payment of the amount to be paid by Lessee to Lessor under subclause (i) of this clause (b) Lessor shall refund to Lessee the net amount received by Lessor on any sale, lease or disposition of the Units after deducting all costs and expenses incurred in connection therewith.

The remedies in this Lease provided in favour of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favour existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies and a waiver on one occasion shall not constitute a waiver of any such right as to any other occasion.

9.2 Return of Units upon Default

If this Lease shall terminate or be repudiated pursuant to Section 9.1, the Lessee shall forthwith deliver possession of the Units to the Lessor. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

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(A) forthwith place such Units at such locations on property of the Lessee as the Lessor reasonably may designate; and

(B) permit the Lessor to store such Units at such locations at the risk of the Lessee until the date all such Units have been sold, leased or otherwise disposed of by the Lessor.


(C) at the direction of the Lessor, within 30 days after the receipt of any such direction, transport the same to any place on the lines of railroad operated by it in Canada or to any connecting carrier for shipment, specified by the Lessor in such direction.

The assembling, delivery and storage of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court having jurisdiction in the premises the Lessor shall be entitled to a court order, judgment or decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver and store the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, lessee or user, such rights of inspection.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 9.2, the Lessee hereby irrevocably appoints the Lessor as its agent and attorney, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Unit.

10. Assignment; Possession and Use


Subject to the provisions of Section 8.3, this Lease shall be assignable in whole or in part by the Lessor to any corporation incorporated and resident in Canada or any province or territory thereof without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of this Lease except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder shall enure to the benefit of the Lessor's assigns. Whenever the Lessor is referred to in this Lease, it shall apply and refer to each assignee of the Lessor.



So long as an Event of Default shall not have occurred and is then continuing under this Lease, the Lessee shall be entitled to the quiet enjoyment, possession and use of the Units in accordance with the terms of this Lease, but, except as otherwise expressly provided herein, the Lessee shall not without the prior written consent of the Lessor assign or transfer its leasehold interest under this Lease in the Units or any of them (except to the extent that the provisions of any mortgage now or hereafter created on any property of the Lessee may subject the Lessee's leasehold interest to the lien thereof). In addition, the Lessee, at its own expense, will promptly cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor not related to the ownership of the Units or to the extent that the provisions of any mortgage now or hereafter created on any property of the Lessee may subject the Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions hereof.

So long as an Event of Default shall not have occurred and is then continuing under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or any affiliated or subsidiary corporation, but only upon and subject to all the terms and conditions of this Lease and without in any way relieving the Lessee from any obligation or liability hereunder.

Nothing in this Section shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railway company incorporated under the laws of Canada (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become amalgamated, merged or consolidated and which shall have acquired the property of the Lessee as an entirety or substantially as an entirety; or (ii) without the prior written consent of the Lessor to sublease any Unit to any party for a period (including renewals) not exceeding one year; or (iii) to sublease any Unit to any party for a period (including renewals) of more than one year with the prior written consent of the Lessor, such consent not to be unreasonably withheld; provided however, that the rights of such sublessee are expressly made subordinate to the rights and remedies of the Lessor under this Lease and no such sublease shall purport to extend beyond the Term. No such sublease shall relieve the Lessee of any liability or obligation hereunder which shall be and remain that of a principal and not a surety.



11. Purchase Option


The Lessee shall have the option, if not in default hereunder, to purchase all but not fewer than all of the Units then covered by this Lease at the end of the 30th Period for a price (the "Purchase Price") equal to 23% of the Lessor's Acquisition Cost.

The purchase option described in this Section 11 shall be exercised by the Lessee giving the Lessor written notice thereof not less than one hundred and eighty (180) days prior to the expiration of the Term.

Upon payment of the Purchase Price, together with all transfer fees or taxes (other than income taxes) incurred in respect thereof, under the purchase option described in this Section 11, the Lessor shall execute and deliver to the Lessee a bill of sale for such Units substantially in the form of Schedule D together with any other documents reasonably required by the Lessee to transfer to the Lessee title to the Units free and clear of all liens, security interests and other encumbrances created by or through the Lessor.

12. Return of Units upon Expiration of Term

As soon as practicable on or after the expiration of the Term, the Lessee will (unless the Units are sold to the Lessee or shall have suffered a Casualty Occurrence), at its own cost and expense, at the request of the Lessor, deliver possession of any Units to the Lessor upon such storage tracks of the Lessee in Canada as the Lessor may reasonably designate and permit the Lessor to store such Units on such tracks for a period not exceeding 180 days and transport the same, at any time within such 180 day period, to any reasonable place on the lines of railroad operated by the Lessee in Canada or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days written notice to the Lessee, or deliver the Units to such other place as shall be mutually agreed upon; the movement and storage of the Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any Unit, to inspect the same; provided however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising either on behalf of the Lessor or any prospective purchaser, lessee or user, the rights of inspection granted under this sentence. The assembling, delivery and storage of the Units as hereinabove provided are of the essence of this Lease, and upon application to any court having jurisdiction in the premises, the Lessor shall be entitled to a judgment, order or decree against the Lessee requiring specific performance of the covenants of the




Lessee so to assemble, deliver, store and transport the Units. Each Unit returned to the Lessor pursuant to this Section shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted and (ii) meet the standards then in effect under the interchange rules of the Association of American Railroads if applicable and the Canadian Transport Commission and any other Canadian or U.S. governmental bodies having jurisdiction.

13. Income Tax Representations and Indemnity

The Lessee represents and warrants that the owner of each Unit, shall, for each taxation year throughout which it does not qualify as a corporation of the type described in paragraph 1100 (16) (a) of the Income Tax Regulations (Canada) (the "Tax Regulations"), be entitled to deduct capital cost allowance with respect to the Units computed at such rate as it may claim, not exceeding 15% of its "undepreciated capital cost" of the Units for the purposes of the Income Tax Act (Canada) (the "Tax Act"), against its net income from renting "leasing properties" as provided in subsection 1100 (15) of the Tax Regulations computed before deducting capital cost allowances and, if it qualifies as a corporation of the type described in subparagraph (b) (ii) under the definition of "Qualified Transportation Equipment" in subsection 127(9) of the Tax Act, it shall be entitled to include in its "investment tax credit" as defined in subsection 127(9) of the Tax Act an amount equal to 5% of its capital cost of the Units, of which 20% qualifies as a "refundable investment tax credit" as defined in section 127.1 of the Tax Act. The Lessor and the Lessee hereby confirm and agree that as between them the Lessor shall be the owner of the Units and that the Lessor's capital cost of the Units is equal to the Lessor's Acquisition Cost.

If, due to any amendment, change or repeal of the Tax Act or the Tax Regulations in whole or in part, as in effect on the date hereof, which amendment, change or repeal shall become effective in respect of any period prior to the Rental Commencement Date (whether or not enacted before such date), or due to the inaccuracy of any representation herein or heretofore in writing made by the Lessee to the Lessor, the Lessor shall lose or shall not have the right to claim or shall suffer a disallowance of all or any portion of such capital cost allowance or investment tax credit or of any interest deduction or losses with respect to any Unit for the purposes of the Tax Act and analogous provisions, if any, of any Provincial Income Tax legislation (collectively referred to as "Applicable Tax Legislation") (collectively called the "Tax Benefits"), the Rental applicable to such Unit set forth in Section 3b of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Tax Benefits have not been claimed, or if claimed and then disallowed on and after the next succeeding




rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of such Tax Benefits which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest and/or penalty, which may be assessed under Applicable Tax Legislation against the Lessor attributable to the loss of all or any portion of such Tax Benefits, together with such additional amount as may be required to put the Lessor in the same position as if such interest and/or penalty had not been assessed; provided, however, that if written notice to the Lessee by the Lessor that such Tax Benefits have not been claimed, or if claimed have been disallowed, shall be given after the expiration of the term of this Lease, then within 30 days after the giving of such notice the Lessee shall pay to the Lessor as supplemental Rental hereunder such amount as in the reasonable opinion of the Lessor will cause the Lessor's net return in respect of such Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of such Tax Benefits which were not claimed or were disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest and/or penalty, which may be assessed under Applicable Tax Legislation against the Lessor attributable to the loss of all or any portion of such Tax Benefits with such additional amount as may be required to put the Lessor in the same after-tax position as if such interest and/or penalty had not been assessed; provided further, however, that such Rental shall not be so increased and such interest and/or penalty shall not be so paid if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of such Tax Benefits with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under Section 6 hereof;

(ii) transfer by the Lessor of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the Rentals from such Unit under this Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the failure of the Lessor to claim such Tax Benefits in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming such capital cost allowance;



(iv) the failure of the Lessor to have sufficient income to benefit from the deduction of such Tax Benefits; or

(v) the use by the Lessor of any elective provision of the Act which has the effect of deferring or reducing any of the Tax Benefits.


The Lessor agrees that if, in the opinion of its or the Lessee's independent tax counsel (herein referred to as "Counsel"), a bona fide claim to all or a portion of such Tax Benefits on any Unit exists in respect of which the Lessee is required to pay increased rental and interest and/or penalty as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of assessment or reassessment or may make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to the Lessor interest on the amount of the tax paid attributable to such Tax Benefits assessed or reassessed, computed at a rate per annum equal to the percentage determined in accordance with Section 3(b) hereof, plus one percent, from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this Section on which the first adjusted rental payment is made in accordance with the provisions of this Section.

The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this Section shall survive the expiration or other termination of this Lease.

14. Mileage Allowance; Subrogation

Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other similar moneys payable by reason of the use of the Units, and any such mileage allowances or other similar moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement



of, receive payment and receipt for any and all such claims on behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

15. Further Assurances

The Lessee covenants and agrees from time to time at its expense to do all acts and execute all such instruments of further assurance as it shall be reasonably requested by the Lessor to do or execute for the purpose of fully carrying out and effectuating this Lease and the intent hereof.

16. Expenses

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection or recording, to the satisfaction of the Lessor and its counsel, of the Lessor's interests hereunder in the Units, or for the purpose of carrying out the intention of this Lease. The Lessee will promptly furnish to the Lessor evidence of such execution, acknowledgement and delivery.

The Lessee will pay the reasonable costs and expenses of the Lessor (including the arrangements contemplated in Section 8.12 and fees and expenses of outside counsel) involved in the preparation and closing of this Lease and all documents provided herein. However such costs and expenses are subject to a maximum limit as agreed to between the Lessor and the Lessee.

17. Interest on Arrears

Anything to the contrary herein contained notwithstanding, any Arrears shall bear interest at a rate of 10% per annum for the period of time during which they are overdue and shall be payable on demand.

18. Notices

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when

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personally served upon an officer of the recipient, when sent by telex or similar means or when, first-class postage prepaid, addressed as follows:

if to the Lessor, at 320 Bay Street, Toronto, Ontario
M5H 2P6
Telex No. 06217799, Attention: Corporate Lending Department;

if to the Lessee, at 935 de La Gauchetiere West, Montreal,
Quebec, H3B 2M9, Telex No. 055-61899, Attention: Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing and any such notice shall be conclusively deemed to be received when so delivered, transmitted or when mailed.

19. Severability; Effect and Modification of Lease

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.


This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supercedes all other agreements, oral or written, except the Equipment Purchase Agreement, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Parties hereto.

20. Waiver

To the extent permitted by law, the Lessee hereby waives the provisions of Sections 19 through to 24 of the Sale of Goods on Condition Act of British Columbia, Section 49 of the Law of the Property Act of Alberta, the Seizures Act of Alberta and the Limitations of Civil Rights Act of Saskatchewan as they may be amended from time to time, to the extent that any such provisions restrict the rights or remedies of the Lessor.

21. Execution and Counterparts

This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in such case such counterparts together shall constitute but one and the same instrument.



22. Law Governing

This Lease shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

23. Effective Date

This Lease and the obligations of the parties hereto shall be effective as and from the date first above written.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed, as of the date first above written.

THE CANADA TRUST COMPANY

Seal

By R. Tillman

By B. Kinna

BRUCE KINNA
MANAGER, COMMERCIAL LEASING

CANADIAN NATIONAL RAILWAY COMPANY

Approved
as to form only

Attorney

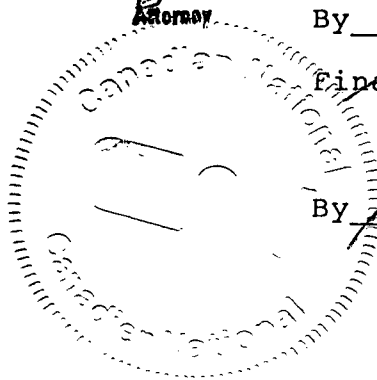
Seal

By Joseph H. Mass

Senior Vice-President
Financial Planning & Administration

By Gene Arthur Sullivan

Assistant Secretary



LIST OF SCHEDULES

- A. Description of Units
- B. Stipulated Loss Values
- C. Delivery and Acceptance Certificate
- D. Bill of Sale

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PROVINCE OF QUEBEC

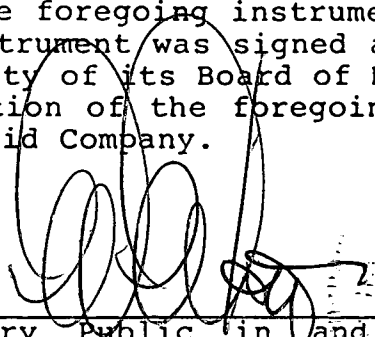
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CITY OF MONTREAL

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On this 21st day of April, 1987, before me personally appeared Yvon H. Masse, to me personally known, who, being by me duly sworn, says that he is the Senior Vice-President Financial Planning and Administration of Canadian National Railway Company, that one of the seals affixed to the foregoing instrument is the seal of said Company, that said instrument was signed and sealed on behalf of said Company by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Company.



Notary Public in and for the
Province of Ontario

(Notarial Seal)

PROVINCE OF ONTARIO

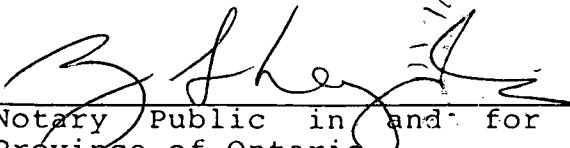
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CITY OF *TORONTO*

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On this day of April, 1987, before me personally appeared *Robert J. Tillman*, to me personally known, who, being by me duly sworn, says that he is *Account Manager* of The Canada Trust Company, that one of the seals affixed to the foregoing instrument is the seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.



Notary Public in and for the
Province of Ontario

(Notarial Seal)

SCHEDULE A
TO
LEASE OF EQUIPMENT

<u>Type</u>	<u>Specifications</u>	<u>Builder</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Quantity</u>	<u>Estimated Unit Price</u>	<u>Estimated Total Price</u>	<u>Estimated Time and Place of Delivery</u>
Centre beam 100 ton 73 ft bulkhead flat cars	CN's General Specification No. SS 1974 revised July, 1976 Builders Specification D-1202-2, CN General Arrangement Drawing No. 406-862.	National Steel Car Limited, Hamilton, Ont.	CNIS 623100 through CNIS 623259 CN 623260 through CN 623299.	160 40	\$ 58008 Cdn \$ 60720 Cdn	\$ 9 281 280 \$ 2 428 800	April-July 1987 Hamilton, Ont. April-July 1987 Hamilton, Ont.

MSA

SCHEDULE B TO LEASE

STIPULATED LOSS VALUES

The Stipulated Loss Value of any Unit to be paid on a rental payment date during the Term shall be an amount equal to the percentage of the Lessor's Acquisition Cost of such Unit set forth opposite such Rental payment date in the following schedule:

<u>Period</u>	<u>Rental Payment Date</u>	<u>Percentage of Lessor's Acquisition Cost</u>
1	January 15, 1988	100.01
2	July 15, 1988	100.01
3	January 15, 1989	100.47
4	July 15, 1989	101.55
5	January 15, 1990	102.53
6	July 15, 1990	103.41
7	January 15, 1991	104.17
8	July 15, 1991	104.82
9	January 15, 1992	105.35
10	July 15, 1992	105.76
11	January 15, 1993	106.05
12	July 15, 1993	106.23
13	January 15, 1994	106.30
14	July 15, 1994	106.28
15	January 15, 1995	106.16
16	July 15, 1995	105.95
17	January 15, 1996	105.65
18	July 15, 1996	105.27
19	January 15, 1997	104.80
20	July 15, 1997	104.27
21	January 15, 1998	97.38
22	July 15, 1998	90.24
23	January 15, 1999	82.82
24	July 15, 1999	75.13
25	January 15, 2000	67.17
26	July 15, 2000	58.92
27	January 15, 2001	50.38
28	July 15, 2001	41.55
29	January 15, 2002	32.42
30	July 15, 2002	23.00

MAF

SCHEDULE C TO LEASE

CERTIFICATE OF ACCEPTANCE

TO: The Canada Trust Company
320 Bay Street
Toronto, Ontario
M5H 2P6

I, the duly authorized representative of The Canada Trust Company (the "Lessor") and Canadian National Railway Company (the "Lessee") for the purposes of the Equipment Purchase Agreement dated April 8, 1987 between National Steel Car Limited (the "Builder") and the Lessee, the Lease of Equipment dated as of April 15, 1987 between the Lessee and the Lessor and the Direction and Disbursement Agreement dated as of April 15, 1987 among the Lessor, the Lessee and the Builder, DO HEREBY CERTIFY that there has been inspected on behalf of the Lessee and the Lessor and found to be completed and marked in accordance with such documents and the applicable specifications, requirements and standards referred to in said Equipment Purchase Agreement, and that there has been delivered to the Lessee on behalf of the Lessor at Hamilton, Ont., and fully and finally accepted by me on behalf of the Lessee and the Lessor (under the said Equipment Purchase Agreement, the said Direction and Disbursement Agreement and the said Lease), the following units of railroad equipment constructed by the Builder pursuant to Equipment Purchase Agreement.

Description

Quantity

No.

Yours very truly,

MAF

SCHEDULE D

Bill of Sale

(hereinafter called the
"Seller", in consideration of the sum of
dollars (\$) paid by CANADIAN NATIONAL RAILWAY
COMPANY, a Canadian corporation (hereinafter called the
"BUYER"), at or before the execution and delivery of these
presents, the receipt of which is hereby acknowledged, does
hereby grant, bargain, sell, transfer and set over unto the
BUYER, its successors and assigns all of its rights, title
and interest in the following property:

(insert description of Equipment)

TO HAVE AND TO HOLD the above described property unto the
BUYER, its successors and assigns, for its and their own use
and behoof, forever.

The SELLER hereby warrants unto the BUYER that the Seller
has legal title to the aforesaid property free and clear of
all liens, security interests and other encumbrances created
by or through the SELLER or which result from claims against
SELLER whether or not related to the ownership of such
property.

THE AFORESAID PROPERTY IS BEING SOLD HEREUNDER ON AN "AS-IS"
BASIS and "WITH ALL FAULTS". THE SELLER MAKES NO WARRANTY,
EITHER EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY
OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND
EXPRESSLY DISCLAIMS LIABILITY FOR LOST PROFIT OR FOR IN-
DIRECT, INCIDENTAL, CONSEQUENTIAL, OR COMMERCIAL LOSSES AND
ALL OTHER OBLIGATIONS OR LIABILITIES.

IN WITNESS WHEREOF, the SELLER has caused this instrument to
be executed in its name by its officers thereunto duly
authorized and its corporate seal to be hereunto affixed the
day of .

(CORPORATE SEAL)

ATTEST:

WHS